

1 APPENDIX A

2 CONFORMING AMENDMENTS

3 SECTION 5. CONFORMING AMENDMENT. Article 5.25, Insurance
4 Code, is amended to read as follows:

5 Art. 5.25. BOARD SHALL FIX RATES. (a) The State Board of
6 Insurance shall have the sole and exclusive power and authority and
7 it shall be its duty to prescribe, fix, determine and promulgate the
8 rates of premiums to be charged and collected by fire insurance
9 companies transacting business in this State. Said Board shall
10 also have authority to alter or amend any and all such rates of
11 premiums so fixed and determined and adopted by it, and to raise or
12 lower the same, or any part thereof, as herein provided. [~~Said~~
13 ~~Board shall have authority to employ clerical help, inspectors,~~
14 ~~experts and other assistants, and to incur such other expenses as~~
15 ~~may be necessary in carrying out the provisions of this law. Said~~
16 ~~Board shall ascertain as soon as practicable the annual fire loss in~~
17 ~~this State; obtain, make and maintain a record thereof and collect~~
18 ~~such data with respect thereto as will enable said Board to classify~~
19 ~~the fire losses of this State, the causes thereof, and the amount of~~
20 ~~premiums collected therefor for each class of risks and the amount~~
21 ~~paid thereon, in such manner as will aid in determining equitable~~
22 ~~insurance rates, methods of reducing such fire losses and reducing~~
23 ~~the insurance rates of the State, or subdivisions of the State. The~~
24 ~~Board may designate one or more advisory organizations or other~~
25 ~~agencies to gather, audit, and compile such experience of insurers,~~
26 ~~and the cost thereof shall be borne by such insurers.]~~

27 (b) Notwithstanding Subsection (a) of this article, on and
28 after the effective date of S.B. No. 14, Acts of the 78th
29 Legislature, Regular Session, 2003, rates for homeowners and
30 residential fire and residential allied lines insurance coverage
31 under this subchapter are determined as provided by Subchapter Q of
32 this chapter, and rates for other lines of insurance subject to this
33 subchapter are determined as provided by Article 5.13-2 of this
34 code, except that on and after December 1, 2004, rates for all lines

1 of insurance subject to this subchapter are determined as provided
2 by Article 5.13-2 of this code. ~~[This subsection does not affect~~
3 ~~the requirement for the commissioner to conduct inspections of~~
4 ~~commercial property and prescribe a manual of rules and rating~~
5 ~~schedules for commercial property under this subchapter.]~~

6 SECTION 6. CONFORMING AMENDMENT. Article 5.25-3, Insurance
7 Code, is amended to read as follows:

8 Art. 5.25-3. FIRE INSURANCE RATES AND FIRE SUPPRESSION
9 RATINGS FOR BORDER MUNICIPALITY. The commissioner, in adopting
10 fire insurance rates ~~[or in assigning or evaluating a fire~~
11 ~~suppression rating]~~ for a municipality at or near the border
12 between this state and another state or the United Mexican States,
13 shall take into account the existence and capabilities of a fire
14 department or volunteer fire department that serves an adjoining or
15 nearby municipality in the other state or the United Mexican States
16 and that by agreement or by long-standing practice provides fire
17 suppression services to the Texas municipality.

18 SECTION 7. CONFORMING AMENDMENT. Article 5.28(a),
19 Insurance Code, is amended to read as follows:

20 (a) Said Board is authorized and empowered to require sworn
21 statements for any period of time from any insurance company
22 affected by this law and from any of its directors, officers,
23 representatives, general agents, state agents, special agents, and
24 local agents of the rates and premiums collected for fire insurance
25 on each class of risks, on all property in this State and of the
26 causes of fire, if such be known, if they are in possession of such
27 data, and information, or can obtain it at a reasonable expense;
28 and said Board is empowered to require such statements showing all
29 necessary facts and information to enable said Board to make, amend
30 and maintain the general basis schedules provided for in this law
31 and the rules and regulations for applying same and to determine
32 reasonable and proper maximum specific rates ~~[and to determine and~~
33 ~~assist in the enforcement of the provisions of this law]~~.

34 SECTION 8. CONFORMING AMENDMENT. Article 5.30(a),

1 Insurance Code, is amended to read as follows:

2 (a) ~~[When a policy of fire insurance shall be issued by any~~
3 ~~company transacting the business of fire insurance in this State,~~
4 ~~such company shall furnish the policyholder with a written or~~
5 ~~printed analysis of the rate or premium charged for such policy,~~
6 ~~showing the items of charge and credit which determine the rate,~~
7 ~~unless such policyholder has theretofore been furnished with such~~
8 ~~analysis of such rate.]~~ All schedules of rates promulgated by said
9 Board shall be open to the public, and every local agent of any
10 company engaging in the business of fire insurance in this state
11 ~~[such fire insurance company]~~ shall have and exhibit to the public
12 copies of such schedules covering all risks upon which he is
13 authorized to write insurance.

14 SECTION 9. CONFORMING AMENDMENT. Article 5.41(a),
15 Insurance Code, is amended to read as follows:

16 (a) A ~~[No]~~ company engaging or participating ~~[shall engage~~
17 ~~or participate]~~ in the insuring or reinsuring of any property in
18 this state ~~[State]~~ against loss or damage by fire may not ~~[except in~~
19 ~~compliance with the terms and provisions of this law, nor shall any~~
20 ~~such company]~~ knowingly write insurance at any lesser rate than the
21 rates herein provided for, and it shall be unlawful for any company
22 so to do, unless it shall thereafter file an analysis of same with
23 the Board~~[, and it shall be unlawful for any company, or its~~
24 ~~officers, directors, general agents, state agents, special agents,~~
25 ~~local agents, or its representatives, to grant or contract for any~~
26 ~~special favor or advantages in the dividends or other profits to~~
27 ~~come thereon, or in commissions in the dividends or other profits to~~
28 ~~accrue thereon, or in commissions or division of commission, or any~~
29 ~~position or any valuable consideration or any inducement not~~
30 ~~specified in the policy contract of insurance, nor shall such~~
31 ~~company give, sell or purchase, offer to give, sell or purchase,~~
32 ~~directly or indirectly, as an inducement to insure or in connection~~
33 ~~therewith, any stocks, bonds or other securities of any insurance~~
34 ~~company or other corporation, partnership or individual, or any~~

1 ~~dividends or profits accrued or to accrue thereon, or anything of~~
2 ~~value whatsoever, not specified in the policy. Nothing in this law~~
3 ~~shall be construed to prohibit a company from sharing its profits~~
4 ~~with its policyholders, if such agreement as to profit sharing~~
5 ~~shall be placed on or in the face of the policy, and such profit~~
6 ~~sharing shall be uniform and shall not discriminate between~~
7 ~~individuals or between classes. No part of the profit shall be paid~~
8 ~~until the expiration of the policy. Any company, or any of its~~
9 ~~officers, directors, general agents, state agents, special agents,~~
10 ~~local agents or its representatives, doing any of the acts in this~~
11 ~~article prohibited, shall be deemed guilty of unjust~~
12 ~~discrimination. If any agent or company shall issue a policy~~
13 ~~without authority, and any policyholder holding such policy shall~~
14 ~~sustain a loss or damage thereunder, said company or companies~~
15 ~~shall be liable to the policyholder thereunder, in the same manner~~
16 ~~and to the same extent as if said company had been authorized to~~
17 ~~issue said policies, although the company issued said policy in~~
18 ~~violation of the provisions of this subchapter. But this shall not~~
19 ~~be construed to give any company the right to issue any contract or~~
20 ~~policy of insurance other than as provided in this subchapter].~~

21 SECTION 10. CONFORMING AMENDMENT. Chapter 30, Insurance
22 Code, is amended to read as follows:

23 CHAPTER 30. GENERAL PROVISIONS

24 Sec. 30.001. PURPOSE OF TITLES 2, 3, 4, 5, 6, 7, 8, 9, 10,
25 11, 12, ~~[AND]~~ 13, AND 14. (a) This title and Titles 3, 4, 5, 6, 7, 8,
26 9, 10, 11, 12, ~~[and]~~ 13, and 14 are enacted as a part of the state's
27 continuing statutory revision program, begun by the Texas
28 Legislative Council in 1963 as directed by the legislature in the
29 law codified as Section 323.007, Government Code. The program
30 contemplates a topic-by-topic revision of the state's general and
31 permanent statute law without substantive change.

32 (b) Consistent with the objectives of the statutory
33 revision program, the purpose of this title and Titles 3, 4, 5, 6,
34 7, 8, 9, 10, 11, 12, ~~[and]~~ 13, and 14 is to make the law encompassed

1 by the titles more accessible and understandable by:

2 (1) rearranging the statutes into a more logical
3 order;

4 (2) employing a format and numbering system designed
5 to facilitate citation of the law and to accommodate future
6 expansion of the law;

7 (3) eliminating repealed, duplicative,
8 unconstitutional, expired, executed, and other ineffective
9 provisions; and

10 (4) restating the law in modern American English to
11 the greatest extent possible.

12 Sec. 30.002. CONSTRUCTION. Except as provided by Section
13 30.003 and as otherwise expressly provided in this code, Chapter
14 311, Government Code (Code Construction Act), applies to the
15 construction of each provision in this title and in Titles 3, 4, 5,
16 6, 7, 8, 9, 10, 11, 12, ~~and~~ 13, and 14.

17 Sec. 30.003. DEFINITION OF PERSON. The definition of
18 "person" assigned by Section 311.005, Government Code, does not
19 apply to any provision in this title or in Title 3, 4, 5, 6, 7, 8, 9,
20 10, 11, 12, ~~or~~ 13, or 14.

21 Sec. 30.004. REFERENCE IN LAW TO STATUTE REVISED BY TITLE 2,
22 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, ~~OR~~ 13, OR 14. A reference in a law
23 to a statute or a part of a statute revised by this title or by Title
24 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, ~~or~~ 13, or 14 is considered to be a
25 reference to the part of this code that revises that statute or part
26 of that statute.

27 SECTION 11. CONFORMING AMENDMENT. Subchapter A, Chapter
28 36, Insurance Code, is amended by adding Section 36.002 to read as
29 follows:

30 Sec. 36.002. ADDITIONAL RULEMAKING AUTHORITY. The
31 commissioner may adopt reasonable rules that are:

32 (1) necessary to effect the purposes of a provision
33 of:

34 (A) Subchapter B, Chapter 5;

1 (B) Subchapter C, Chapter 1806;
2 (C) Subchapter A, Chapter 2301;
3 (D) Chapter 251, as that chapter relates to
4 casualty insurance and fidelity, guaranty, and surety bond
5 insurance;
6 (E) Chapter 253;
7 (F) Chapter 2251 or 2252; or
8 (G) Subtitle B, Title 10; or
9 (2) appropriate to accomplish the purposes of a
10 provision of:
11 (A) Section 37.051(a), 403.002, 492.051(b) or
12 (c), 501.159, 941.003(b)(3) or (c), or 942.003(b)(3) or (c);
13 (B) Subchapter H, Chapter 544;
14 (C) Chapter 251, as that chapter relates to:
15 (i) automobile insurance;
16 (ii) casualty insurance and fidelity,
17 guaranty, and surety bond insurance;
18 (iii) fire insurance and allied lines;
19 (iv) workers' compensation insurance; or
20 (v) aircraft insurance;
21 (D) Chapter 5, 252, 253, 254, 255, 256, 426, 493,
22 494, 1804, 1805, 1806, or 2171;
23 (E) Subtitle B, C, D, E, F, H, or I, Title 10;
24 (F) Section 417.008, Government Code;
25 (G) Chapter 406A, Labor Code; or
26 (H) Chapter 2154, Occupations Code. (V.T.I.C.
27 Art. 5.19, Sec. (d); Art. 5.98.)

28 Source Law

29 [Art. 5.19]

30 (d) Rules and Regulations.--The Board may make
31 reasonable rules and regulations necessary to effect
32 the purposes of this subchapter.

33 Art. 5.98. The State Board of Insurance may
34 adopt reasonable rules that are appropriate to
35 accomplish the purposes of this chapter.

1 section, the revised law continues the specific
2 references to all of the provisions previously
3 contained in Subchapter B, Chapter 5, or in Chapter 5,
4 as applicable. However, the revision of those
5 provisions does not affect the applicability of
6 Section 36.001.

7 (4) V.T.I.C. Article 5.98 provides that the
8 State Board of Insurance, meaning the commissioner of
9 insurance for the reason stated in Revisor's Note (1)
10 to this section, may "adopt reasonable rules that are
11 appropriate to accomplish the purposes of this
12 chapter," meaning V.T.I.C. Chapter 5. V.T.I.C.
13 Article 5.53, contained in Chapter 5, is revised in
14 pertinent part as Chapter 1807 of this code, and
15 provides that "[t]he provisions of Chapter 5 of this
16 code, other than [Article 5.53], shall not apply to
17 marine insurance as defined by [Article 5.53]."
18 Because Article 5.53 makes clear that Article 5.98
19 does not apply to marine insurance and Chapter 1807
20 applies only to marine insurance, the revised law
21 omits the reference to Chapter 1807. Other provisions
22 of Article 5.53 are revised as part of Section
23 2002.006; those provisions merely state the
24 inapplicability of specific laws to the kinds of
25 insurance governed by marine insurance, and it is
26 appropriate to include those provisions in the
27 reference in the revised law to Subtitle D, Title 10,
28 which includes Chapter 2002.

29 SECTION 12. CONFORMING AMENDMENT. Subtitle B, Title 2,
30 Insurance Code, is amended by adding Chapter 86 to read as follows:

31 CHAPTER 86. REVOCATION OR MODIFICATION OF CERTIFICATE OF
32 AUTHORITY; AUTHORITY TO BRING CERTAIN ACTIONS
33 SUBCHAPTER A. REVOCATION OR MODIFICATION OF CERTIFICATE
34 OF AUTHORITY

1 Sec. 86.001. AUTHORITY TO REVOKE OR MODIFY CERTIFICATE OF
2 AUTHORITY. The commissioner may revoke or modify a certificate of
3 authority if a condition or requirement prescribed by law for
4 granting the certificate is no longer satisfied. (V.T.I.C. Art.
5 1.15, Sec. 1 (part); Art. 1.19 (part).)

6 Source Law

7 [Art. 1.15]

8 Sec. 1. . . . Such [State] Board [of
9 Insurance] may revoke or modify any certificate of
10 authority issued by such Board or by any predecessor in
11 office when any condition or requirement prescribed by
12 law for granting it no longer exists. . . .

13 Art. 1.19. . . . The Board [of Insurance
14 Commissioners] may revoke or modify any certificate of
15 authority issued by it when any conditions prescribed
16 by law for granting it no longer exist.
17 . . .

18 Revisor's Note

19 Section 1, V.T.I.C. Article 1.15, refers to the
20 State Board of Insurance, and V.T.I.C. Article 1.19
21 refers to the Board of Insurance Commissioners. Under
22 Chapter 499, Acts of the 55th Legislature, Regular
23 Session, 1957, administration of the insurance laws of
24 this state was reorganized and the powers and duties of
25 the Board of Insurance Commissioners were transferred
26 to the State Board of Insurance. Chapter 685, Acts of
27 the 73rd Legislature, Regular Session, 1993, abolished
28 the board and transferred its functions to the
29 commissioner of insurance and the Texas Department of
30 Insurance. Throughout this chapter, references to the
31 Board of Insurance Commissioners and the State Board
32 of Insurance have been changed appropriately.

33 Sec. 86.002. NOTICE OF INTENT TO REVOKE OR MODIFY
34 CERTIFICATE OF AUTHORITY. (a) The commissioner must notify an
35 insurance carrier in writing of the commissioner's intent to revoke
36 or modify the carrier's certificate of authority.

37 (b) The commissioner must provide the notice not later than
38 the 10th day before the date the revocation or modification is to

1 occur.

2 (c) The commissioner must specifically state in the notice
3 the reason for the action. (V.T.I.C. Art. 1.15, Sec. 1 (part).)

4 Source Law

5 Sec. 1. . . . Such Board shall give such
6 company at least ten (10) days written notice of its
7 intention to revoke or modify such certificate of
8 authority stating specifically the reason for the
9 action it proposes to take.

10 Revisor's Note

11 The portion of Section 1, V.T.I.C. Article 1.15,
12 revised in this section requires certain notice to be
13 given to "such company." For consistency with the
14 remaining portion of Section 1, V.T.I.C. Article 1.15,
15 revised in this code in Sections 401.051, 401.052,
16 401.054, and 86.001, the revised law substitutes
17 "insurance carrier" for "such company."

18 [Sections 86.003-86.050 reserved for expansion]

19 SUBCHAPTER B. AUTHORITY TO BRING CERTAIN ACTIONS

20 Sec. 86.051. AUTHORITY TO BRING ACTION FOR OR PROSECUTE
21 VIOLATION OF LAW. The department, through the attorney general or
22 an attorney designated by the attorney general, may institute an
23 action relating to or initiate a prosecution for a violation of a
24 law of this state relating to insurance. (V.T.I.C. Art. 1.19
25 (part).)

26 Source Law

27 Art. 1.19. . . . The Board shall also have
28 power to institute suits and prosecutions, either by
29 the Attorney General or such other attorneys as the
30 Attorney General may designate, for any violation of
31 the law of this State relating to insurance. . . .

32 Sec. 86.052. AUTHORITY TO BRING ACTION TO CLOSE AFFAIRS OR
33 RESTRAIN BUSINESS OF DOMESTIC INSURANCE COMPANY. Only the
34 department may bring an action to:

35 (1) close the affairs of an insurance company
36 organized under the laws of this state; or

37 (2) enjoin, restrain, or interfere with the
38 prosecution of the business of an insurance company organized under

1 the laws of this state. (V.T.I.C. Art. 1.19 (part).)

2 Source Law

3 Art. 1.19. . . . No action shall be brought or
4 maintained by any person other than the Board for
5 closing up the affairs or to enjoin, restrain or
6 interfere with the prosecution of the business of any
7 such insurance company organized under the laws of
8 this State.

9 SECTION 13. CONFORMING AMENDMENT. Chapter 252, Insurance
10 Code, is amended by adding Section 252.005 to read as follows:

11 Sec. 252.005. EXCEPTION. This chapter does not apply to:

12 (1) a farm mutual insurance company operating under
13 Chapter 911; or

14 (2) a mutual insurance company engaged in business
15 under Chapter 12, Title 78, Revised Statutes, before that chapter's
16 repeal by Section 18, Chapter 40, Acts of the 41st Legislature, 1st
17 Called Session, 1929, as amended by Section 1, Chapter 60, General
18 Laws, Acts of the 41st Legislature, 2nd Called Session, 1929, that
19 retains the rights and privileges under the repealed law to the
20 extent provided by those sections. (V.T.I.C. Art. 5.54 (part).)

21 Source Law

22 Art. 5.54. Nothing in Articles 5.49, . . . of
23 this subchapter shall ever be construed to apply to any
24 farm mutual insurance company operating under Chapter
25 16 of this Code or to any company now operating under
26 Chapter 12, of Title 78, which has heretofore been
27 repealed. . . .

28 SECTION 14. CONFORMING AMENDMENT. Subchapter D, Chapter
29 501, Insurance Code, is amended by adding Section 501.159 to read as
30 follows:

31 Sec. 501.159. COMMENTS ON CERTAIN INSURER FILINGS. (a)
32 Notwithstanding this chapter, the office may submit written
33 comments to the commissioner and otherwise participate regarding
34 individual insurer filings made under Chapters 2251 and 2301
35 relating to insurance described by Subchapter B, Chapter 2301.

36 (b) The commissioner may adopt reasonable and necessary
37 rules to implement this section. (V.T.I.C. Art. 5.145, Secs. 5, 6.)

38 Source Law

39 Sec. 5. Notwithstanding Article 1.35A of this

1 code, the office of public insurance counsel may
2 submit written comments to the commissioner and
3 otherwise participate regarding individual company
4 filings made under Article 5.13-2 of this code.

5 Sec. 6. The commissioner may adopt reasonable
6 and necessary rules to implement this article.

7 Revisor's Note

8 (1) Section 5, V.T.I.C. Article 5.145, refers to
9 "filings made under Article 5.13-2 of this code."
10 V.T.I.C. Article 5.13-2 is revised in part in Chapters
11 2251 and 2301 of this code. Chapter 2251 includes
12 provisions derived from V.T.I.C. Article 5.13-2C, and
13 Chapter 2301 includes provisions derived from V.T.I.C.
14 Article 5.145. The revised law appropriately
15 substitutes references to Chapters 2251 and 2301 in
16 their entirety for the reference to Article 5.13-2
17 because filings are not made under the provisions of
18 those chapters that are derived from Articles 5.13-2C
19 and 5.145. In addition, the revised law does not refer
20 to the provisions of Article 5.13-2 that are not
21 revised because filings are not made under those
22 provisions.

23 (2) Section 6, V.T.I.C. Article 5.145,
24 authorizes the commissioner of insurance to adopt
25 reasonable and necessary rules to implement Article
26 5.145. In addition to Section 6, Section 5 of that
27 article is revised as this section, and Sections 1, 2,
28 3, and 4 are revised in this code as Subchapter B,
29 Chapter 2301. The revised law in Section 501.159(b)
30 substitutes "this section" for "this article" and does
31 not refer to Subchapter B, Chapter 2301, because the
32 substance of Section 6 is repeated in that subchapter.

33 SECTION 15. CONFORMING AMENDMENT. Subchapter O, Chapter
34 841, Insurance Code, is amended by adding Section 841.705 to read as
35 follows:

36 Sec. 841.705. PENALTY FOR FAILURE TO INVEST OR REPORT. (a)
37 In addition to the penalty provided by this subchapter, an

1 insurance company is subject to a penalty as prescribed by
2 Subsection (b) if, while holding a certificate of authority to
3 engage in the business of insurance in this state, or after the
4 company ceases to write new business or ceases to hold a certificate
5 of authority, the company intentionally fails or refuses to:

6 (1) make the investments required by Chapter 425;

7 (2) make a report required by a law described by
8 Section 841.002;

9 (3) make any special report requested by the
10 commissioner under a law described by Section 841.002; or

11 (4) comply with another provision of a law described
12 by Section 841.002.

13 (b) A penalty under this section is in the amount of \$25 per
14 day for each day the company remains in default after the
15 commissioner notifies the company of the default in the manner
16 provided by this subchapter.

17 (c) A penalty under this section may be recovered in a suit
18 brought by the attorney general on behalf of the state in a district
19 court of Travis County.

20 (d) In a suit brought to recover a penalty under this
21 section:

22 (1) there are rebuttable presumptions that:

23 (A) any default that may have occurred was
24 intentional; and

25 (B) the notice required by Subsection (b) was
26 given; and

27 (2) if the question of whether the investments
28 required by Chapter 425 were made is at issue, the defendant
29 insurance company has the burden of proving that the investments
30 were made as required by that chapter. (V.T.I.C. Art. 3.56.)

31 Source Law

32 Art. 3.56. If any such company shall
33 intentionally fail or refuse to make the investments
34 required by this chapter, or make any report required
35 by this chapter, or to make any special report
36 requested by the Board of Insurance Commissioners

1 under authority of this chapter, or generally to
2 comply with any provision or requirements of this
3 chapter, while holding a certificate of authority to
4 transact business in this State, or after it shall
5 cease to write new business or cease to hold such
6 certificate, such failure or refusal shall subject
7 such company, in addition to the penalty provided in
8 the preceding article, in cases to which said article
9 may be applicable, to the payment of a penalty of
10 Twenty-five (\$25.00) Dollars per day for each day that
11 such company shall remain in default after the Board
12 shall notify such company of such default, in the
13 manner provided in the preceding article, to be
14 recovered in a suit that may be brought by the Attorney
15 General in behalf of the State in the District Court of
16 Travis County. In any suit brought to recover such
17 penalty, there shall be a prima facie presumption
18 subject to rebuttal, that any default that may have
19 occurred was intentional; that the notice required by
20 this chapter was given, and the burden of proof shall
21 be on the defendant company to prove that the
22 investments required by this chapter were made as
23 herein required whenever the question of whether or
24 not such investments were thus made is in issue.

25 Revisor's Note

26 (1) V.T.I.C. Article 3.56 refers to investments
27 and reports required or requested under V.T.I.C.
28 Chapter 3. Chapter 425 of this code, which is derived
29 from portions of Chapter 3, includes the revision of
30 the provisions of Chapter 3 relating to investments
31 for those companies. The provisions of Chapter 3
32 regarding reports required or potentially requested of
33 those companies are revised as various provisions of
34 this code. Section 841.002 of this code refers to
35 Chapter 3 and describes laws derived from Chapter 3
36 that may require, or under which a request may be made
37 of, a domestic life, accident, or health insurance
38 company to make a report. The revised law is drafted
39 accordingly.

40 (2) V.T.I.C. Article 3.56 refers to a failure to
41 comply with "any provision or requirements" of
42 V.T.I.C. Chapter 3. The revised law omits the
43 reference to "requirements" because, in the context of
44 Article 3.56, the meaning of that term is included in
45 the meaning of "any provision."

46 (3) V.T.I.C. Article 3.56 refers to a "prima

1 facie presumption subject to rebuttal." The revised
2 law omits "prima facie" as unnecessary because a
3 presumption necessarily involves a "prima facie"
4 presumption of a fact. Consequently, the term does not
5 add to the clear meaning of the law.

6 SECTION 16. CONFORMING AMENDMENT. Subtitle H, Title 6,
7 Insurance Code, is amended by adding Chapter 962 to read as follows:

8 CHAPTER 962. JOB PROTECTION INSURANCE

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 962.001. GENERAL DEFINITIONS. In this chapter:

11 (1) "Insured" means an individual whose
12 indemnification against income loss is provided because of the
13 individual's membership in a company or association that offers a
14 job protection insurance plan.

15 (2) "Insurer" has the meaning assigned by Section
16 801.001.

17 (3) "Person" means an individual, corporation,
18 association, or other legal entity. (V.T.I.C. Art. 25.01, Secs.
19 (3), (4), (5).)

20 Source Law

21 Art. 25.01. In this chapter:

22 (3) "Carrier" has the meaning provided by
23 Article 1.14 of this code.

24 (4) "Insured" means one whose
25 indemnification against income loss is provided by
26 virtue of his membership in a company or association
27 that offers a job protection insurance plan.

28 (5) "Person" means an individual,
29 corporation, association, or any other legal entity.

30 Revisor's Note

31 (1) Section (2), V.T.I.C. Article 25.01,
32 defines "board" as the State Board of Insurance.
33 Chapter 685, Acts of the 73rd Legislature, Regular
34 Session, 1993, abolished the State Board of Insurance
35 and transferred the board's functions to the
36 commissioner of insurance and the Texas Department of
37 Insurance. Throughout this chapter, references to the

board have been changed to "commissioner" or "department" as appropriate. For this reason, the revised law omits the definition of "board." The omitted law reads:

(2) "Board" means the State Board of Insurance.

(2) Section (3), V.T.I.C. Article 25.01, defines "carrier" to have the meaning provided by V.T.I.C. Article 1.14, revised in pertinent part as Section 801.001 of this code. Section 801.001 defines "insurer" instead of "carrier." For that reason the term "insurer" is substituted for "carrier" in this section and throughout this chapter.

Sec. 962.002. JOB PROTECTION INSURANCE DEFINED. (a) In this chapter, "job protection insurance" means insurance providing indemnity that is:

(1) paid for loss of position arising from discharge or suspension;

(2) payable in installments that do not exceed the average monthly wage of the insured; and

(3) provided to:

(A) conductors, engineers, motormen, brakemen, switchmen, firemen, dispatchers, clerks, operators, trackmen, signalmen, and maintenance-of-way personnel of steam and electric railways; and

(B) bus drivers and truck drivers employed by common carriers.

(b) The term "job protection insurance" does not include a job benefit fund administered by and through a labor union only for the union's members. (V.T.I.C. Art. 25.01, Sec. (1).)

Source Law

Art. 25.01. In this chapter:

(1) "Job protection insurance" means the business of providing indemnity to conductors, engineers, motormen, brakemen, switchmen, firemen, dispatchers, clerks, operators, trackmen, signalmen, and maintenance of way personnel of steam and electric

1 railways and to bus drivers and truck drivers employed
2 by common carriers for loss of position arising from
3 discharge or suspension, which indemnity is payable in
4 installments that do not exceed the average monthly
5 wage of the insured; but shall not apply to job benefit
6 funds administered by and through labor unions for
7 their members only.

8 Revisor's Note

9 Section (1), V.T.I.C. Article 25.01, defines "job
10 protection insurance" to mean "the business of
11 providing" certain indemnity. The revised law
12 substitutes "insurance providing indemnity" for "the
13 business of providing indemnity" because as the term
14 is used in Article 25.01, revised as this chapter, "job
15 protection insurance" refers to the kind of insurance
16 provided and not to the business of providing that kind
17 of insurance.

18 Sec. 962.003. COMPLIANCE WITH CHAPTER REQUIRED. An insurer
19 must comply with this chapter to write the insurance coverages
20 authorized by Section 962.101. (V.T.I.C. Art. 25.02, Sec. (c).)

21 Source Law

22 (c) On or after the effective date of this
23 chapter, an insurance carrier may not write the
24 coverages specified in Subdivisions (1) and (2) of
25 Section (a) of this article except by complying with
26 this chapter.

27 Revisor's Note

28 Section (c), V.T.I.C. Article 25.02, states that
29 "[o]n or after the effective date of this chapter,"
30 meaning V.T.I.C. Chapter 25, compliance with the
31 chapter is required to write certain coverages. The
32 revised law omits the quoted language as executed and
33 because Section 311.022, Government Code (Code
34 Construction Act), which applies to the revised law,
35 provides that a statute is presumed to operate
36 prospectively unless expressly made retrospective.

37 Sec. 962.004. APPLICABILITY OF OTHER LAW. An insurer
38 operating under this chapter is subject to the following
39 provisions, if not in conflict with this chapter:

1 (1) the other chapters of this code, including:
2 (A) Chapter 221;
3 (B) Chapter 281, other than any minimum capital
4 and surplus requirements specified in that chapter;
5 (C) Chapter 822, including Sections 822.203,
6 822.205, 822.210, and 822.212;
7 (D) Chapter 861; and
8 (E) Chapter 402; and
9 (2) Section 171.0525, Tax Code. (V.T.I.C. Arts.
10 25.05, 25.07.)

11 Source Law

12 Art. 25.05. Chapter 2, including Article 2.20,
13 Chapter 8, and Article 4.10 of this code, and all other
14 provisions of the Insurance Code, if not in conflict
15 with this chapter, shall apply to and govern any
16 insurance carrier operating under this chapter. In
17 addition, Article 21.49-8 of this code applies to each
18 insurance carrier operating under this chapter.

19 Art. 25.07. Article 21.46 of this code, with the
20 exception of the minimum capital and surplus
21 requirements specified in that article, applies to any
22 carrier operating under this chapter.

23 Revisor's Note

24 V.T.I.C. Article 25.05 states that "all . . .
25 provisions of the Insurance Code, if not in conflict
26 with this chapter," meaning V.T.I.C. Chapter 25,
27 revised as this chapter, apply to an insurer operating
28 under this chapter and specifically lists certain
29 provisions that apply. The revised law retains the
30 specific references for the convenience of the reader.
31 Among the specific references is V.T.I.C. Chapter 8,
32 revised in this code as Chapters 861 and 984. The
33 revised law references only Chapter 861 because
34 Chapter 984 is applicable only to Mexican casualty
35 insurance companies that provide certain automobile
36 coverage or accident or other casualty coverage.

37 In addition, V.T.I.C. Articles 25.05 and 25.07
38 provide that V.T.I.C. Article 21.49-8, revised as

Chapter 402 of this code, and certain provisions of V.T.I.C. Article 21.46, revised as Chapter 281 of this code, apply to an insurer operating under this chapter. While it is not explicitly stated, it is clear from the portion of Article 25.05 quoted above that Articles 21.49-8 and 21.46 apply only to the extent that those articles do not conflict with the law revised as this chapter. Also, general rules of statutory construction provide that a more specific provision supersedes a general statement of law. Because the law revised as this chapter is specific to job protection insurance, it is clear that Articles 21.49-8 and 21.46 apply only to the extent that there is no conflict with that law. The revised law is drafted accordingly.

Sec. 962.005. AGENTS. Title 13 applies to the licensing and regulation of an agent authorized to solicit job protection insurance for an insurer operating under this chapter. (V.T.I.C. Art. 25.06.)

Source Law

Art. 25.06. Subchapter A, Chapter 21, of this code applies to the licensing and regulation of an agent authorized to solicit job protection insurance for an insurance carrier under this chapter.

Revisor's Note

V.T.I.C. Article 25.06 states that Subchapter A, V.T.I.C. Chapter 21, applies to the licensing and regulation of certain agents. The pertinent portions of that subchapter were revised as part of Title 13 of this code. Title 13 contains some provisions that were not derived from Subchapter A, Chapter 21. Those provisions either are inapplicable by their own terms or apply to the licensing and regulation of the agents in accordance with V.T.I.C. Article 25.05, revised as Section 962.004 of this chapter. The revised law is

1 drafted accordingly.

2 [Sections 962.006-962.050 reserved for expansion]

3 SUBCHAPTER B. AUTHORITY TO ENGAGE IN BUSINESS

4 Sec. 962.051. QUALIFICATIONS FOR CERTIFICATE OF AUTHORITY.

5 An insurer may not be issued a certificate of authority to operate
6 under this chapter unless:

7 (1) it or a predecessor was writing the insurance
8 coverages authorized by Section 962.101 on or before January 1,
9 1920, in at least one state; and

10 (2) it had policyholders in this state on August 29,
11 1983, and provides proof of that fact to the department. (V.T.I.C.
12 Art. 25.04, Sec. (a).)

13 Source Law

14 Art. 25.04. (a) An insurance carrier may not be
15 granted a certificate of authority to operate under
16 this chapter unless:

17 (1) it or a predecessor carrier was
18 writing the insurance coverages authorized by
19 Subdivisions (1) and (2) of Section (a), Article
20 25.02, of this chapter on or before January 1, 1920, in
21 at least one state; and

22 (2) it has policyholders in this state on
23 the effective date of this chapter and provides proof
24 of that fact to the board.

25 Revisor's Note

26 V.T.I.C. Article 25.04 refers to the effective
27 date of "this chapter," meaning V.T.I.C. Chapter 25.
28 That chapter became effective on August 29, 1983. The
29 revised law is drafted accordingly.

30 Sec. 962.052. ISSUANCE OF CERTIFICATE OF AUTHORITY. (a)

31 The commissioner shall issue a certificate of authority to a
32 domestic or foreign insurer that applies for a certificate if:

33 (1) the applicant has:

34 (A) complied with the requirements of this
35 chapter and all other requirements imposed on the applicant by law;
36 and

37 (B) paid any deposit imposed by law; and

38 (2) the operational history of the applicant indicates
39 a condition such that the expanded operation of the applicant in

1 this state or the applicant's operations outside this state will
2 not create a condition that might be hazardous to the applicant's
3 policyholders or creditors or to the public, when that operational
4 history is reviewed in conjunction with:

5 (A) the applicant's loss experience;

6 (B) the kinds and nature of risks insured;

7 (C) the financial condition of the applicant and
8 the applicant's ownership;

9 (D) the applicant's proposed method of
10 operation;

11 (E) the applicant's affiliations;

12 (F) the applicant's investments;

13 (G) any contracts leading to contingent
14 liability or agreements relating to guaranty and surety, other than
15 insurance; and

16 (H) the ratio of the applicant's total annual
17 premium and net investment income to commission expenses, general
18 insurance expenses, policy benefits paid, and required policy
19 reserve increases.

20 (b) The commissioner shall file in the department's offices
21 any documents delivered to the commissioner under this section.

22 (c) The certificate of authority authorizes the insurer to
23 engage in the kind or kinds of business in this state specified in
24 the certificate. (V.T.I.C. Art. 25.04, Sec. (b) (part).)

25 Source Law

26 (b) If a domestic or foreign carrier has
27 complied with the requirements of this chapter and all
28 other requirements imposed on the company by law; has
29 paid any deposit imposed by law; and the operational
30 history of the company when reviewed in conjunction
31 with its loss experience, the kinds and nature of risks
32 insured, the financial condition of the company and
33 its ownership, its proposed method of operation, its
34 affiliations, its investments, any contracts leading
35 to contingent liability or agreements in respect to
36 guaranty and surety, other than insurance, and the
37 ratio of total annual premium and net investment
38 income to commission expenses, general insurance
39 expenses, policy benefits paid and required policy
40 reserve increases, indicates a condition such that the
41 expanded operation of the company in this state or its
42 operations outside this state will not create a

1 condition that might be hazardous to its
2 policyholders, creditors, or the general public, the
3 commissioner shall file in the office the documents
4 delivered to him and shall issue to the company a
5 certificate of authority to transact the kind or kinds
6 of business in this state specified in the
7 certificate. . . .

8 Sec. 962.053. COMPLIANCE WITH STATE LAW REQUIRED. A
9 certificate of authority issued under this chapter continues in
10 effect on the condition that the insurer continue to comply with the
11 laws of this state. (V.T.I.C. Art. 25.04, Sec. (b) (part).)

12 Source Law

13 (b) . . . The certificate shall continue in
14 full force and effect on the condition that the company
15 continue to comply with the laws of this state.

16 Revisor's Note

17 Section (b), V.T.I.C. Article 25.04, provides
18 that a certificate of authority continues "in full
19 force and effect" on certain conditions. The revised
20 law omits the reference to "in full force" because "in
21 full force" is included within the meaning of "in
22 effect."

23 Sec. 962.054. INSURERS NOT MEETING CERTAIN REQUIREMENTS.
24 To write the insurance coverages authorized by Section 962.101, a
25 domestic or foreign insurer that does not meet the requirements of
26 Sections 962.051 and 962.052 must comply with Chapters 822 and 861.
27 (V.T.I.C. Art. 25.04, Sec. (c).)

28 Source Law

29 (c) Domestic and foreign insurance carriers not
30 meeting the requirements of this article must comply
31 with the requirements of Chapters 2 and 8 of this code
32 in order for those carriers to be permitted to write
33 the insurance coverages authorized by Article 25.02 of
34 this code.

35 Revisor's Note

36 Section (c), V.T.I.C. Article 25.04, references
37 former V.T.I.C. Chapter 8, revised in this code as
38 Chapters 861 and 984. The revised law references only
39 Chapter 861 for the reason stated in the revisor's note
40 to Section 962.004.

41 Sec. 962.055. CAPITAL AND SURPLUS REQUIREMENTS. A domestic

1 or foreign insurer operating under this chapter shall maintain the
2 minimum capital and surplus required by Sections 822.054, 822.210,
3 and 822.211. (V.T.I.C. Art. 25.03.)

4 Source Law

5 Art. 25.03. Domestic and foreign insurance
6 carriers operating under this chapter shall maintain
7 the minimum capital and surplus required by Article
8 2.02 of this code.

9 Revisor's Note

10 V.T.I.C. Article 25.03 refers to the minimum
11 capital and surplus required by V.T.I.C. Article 2.02,
12 revised in this code as Sections 822.052, 822.053,
13 822.054, 822.202, 822.210, and 822.211. The revised
14 law does not reference Sections 822.052 and 822.053
15 because those sections do not relate to capital and
16 surplus requirements. The revised law does not
17 reference Section 822.202 because that section relates
18 to the determination of capital and surplus in
19 relation to full coverage automobile insurance. The
20 revised law references Section 822.210, derived from
21 both V.T.I.C. Article 2.02 and V.T.I.C. Article 2.20.
22 Under V.T.I.C. Article 25.05, revised in this chapter
23 as Section 962.004, an insurer under this chapter is
24 subject to both Articles 2.02 and 2.20.

25 [Sections 962.056-962.100 reserved for expansion]

26 SUBCHAPTER C. COVERAGE

27 Sec. 962.101. AUTHORIZED COVERAGES. A domestic or foreign
28 insurer operating under this chapter may write:

29 (1) job protection insurance; and

30 (2) insurance that:

31 (A) insures an individual described by Section
32 962.002(a) against bodily injury or death by accident or against
33 disability on account of sickness or accident;

34 (B) grants specific hospital benefits and
35 medical, surgical, and sick-care benefits to an individual and the

1 individual's family; and

2 (C) provides reimbursement of funeral expenses
3 in an amount not to exceed \$200 to any person in connection with the
4 coverage. (V.T.I.C. Art. 25.02, Sec. (a).)

5 Source Law

6 Art. 25.02. (a) The kinds of insurance to be
7 written by domestic and foreign insurance carriers
8 operating under this chapter are as follows:

9 (1) to provide indemnity to conductors,
10 engineers, motormen, brakemen, switchmen, firemen,
11 dispatchers, clerks, operators, trackmen, signalmen,
12 and maintenance of way personnel of steam and electric
13 railways and to bus drivers and truck drivers employed
14 by common carriers for loss of position arising from
15 discharge or suspension, which indemnity is payable in
16 installments that do not exceed the average monthly
17 wage of the insured; and

18 (2) to insure such persons against bodily
19 injury or death by accident or against disability on
20 account of sickness or accident, to grant specific
21 hospital benefits and medical, surgical, and sick-care
22 benefits to persons and their families, and to provide
23 reimbursement of funeral expenses in an amount not to
24 exceed \$200 to any person in conjunction with this
25 coverage.

26 Revisor's Note

27 Section (a), V.T.I.C. Article 25.02, describes
28 the kinds of insurance that may be written by an
29 insurer operating under this chapter. Section (a)(1)
30 of that article is substantively identical to the
31 definition of "job protection insurance" contained in
32 V.T.I.C. Article 25.01, revised in this chapter as
33 Section 962.002. For clarity and conciseness, the
34 revised law substitutes the defined term for the
35 substance of Section (a)(1).

36 Sec. 962.102. OTHER COVERAGES PROHIBITED. A domestic or
37 foreign insurer operating under this chapter may not write coverage
38 that is not authorized by Section 962.101. (V.T.I.C. Art. 25.02,
39 Sec. (b).)

40 Source Law

41 [(a) The kinds of insurance to be written by
42 domestic and foreign insurance carriers operating
43 under this chapter are as follows]

44 (b) Any coverage that is not authorized by
45 Subdivisions (1) and (2) of Section (a) of this article
46 is specifically prohibited.

1 Sec. 962.103. APPLICABILITY OF GUARANTY FUND LAW. A
2 guaranty fund established under this code does not provide coverage
3 for insurance written under this chapter except as specifically
4 provided by a law governing the fund. (V.T.I.C. Art. 25.08.)

5 Source Law

6 Art. 25.08. Coverages provided under this
7 chapter are not subject to the guaranty funds provided
8 in this code unless specifically indicated in the laws
9 governing those funds.

10 [Sections 962.104-962.700 reserved for expansion]

11 SUBCHAPTER O. ENFORCEMENT PROVISIONS

12 Sec. 962.701. PROHIBITED ACTS; OFFENSE. (a) A person may
13 not:

14 (1) provide coverage described by Section 962.101
15 unless the person holds a certificate of authority to provide that
16 coverage; or

17 (2) solicit insurance for an insurer authorized to
18 provide insurance coverage under this chapter unless the person
19 holds an insurance agent's license.

20 (b) A person commits an offense if the person knowingly
21 violates Subsection (a). An offense under this subsection is a
22 Class B misdemeanor.

23 (c) Venue for prosecution of an offense under this section
24 is in Travis County. (V.T.I.C. Art. 25.09; Art. 25.10, Secs. (b),
25 (c).)

26 Source Law

27 Art. 25.09. A person may not engage in any of
28 the following acts:

29 (1) providing any of the coverages
30 indicated in Article 25.02 of this code without
31 initially having obtained a certificate of authority
32 to provide those coverages from the board; or

33 (2) soliciting insurance for a carrier
34 authorized to provide insurance coverage under this
35 chapter without initially having obtained an insurance
36 agent's license.

37 [Art. 25.10]

38 (b) A person commits an offense if the person
39 knowingly or intentionally violates Article 25.09 of
40 this chapter.

41 (c) An offense under Section (b) of this article
42 is a Class B misdemeanor. Venue for the offense is in
43 Travis County.

1 Revisor's Note

2 Section (b), V.T.I.C. Article 25.09, refers to a
3 person who "knowingly or intentionally" engages in
4 certain conduct. The revised law omits the reference
5 to the higher degree of culpability as unnecessary.
6 Under Section 6.02, Penal Code, applicable to the
7 revised law, culpable mental states are classified
8 according to relative degrees from highest to lowest.
9 An intentional mental state is a more culpable mental
10 state than a knowing mental state. Proof of a higher
11 degree of culpability than that charged constitutes
12 proof of the culpability charged.

13 Sec. 962.702. REFUSAL TO ISSUE OR RENEW CERTIFICATE OF
14 AUTHORITY OR LICENSE; SUSPENSION OR REVOCATION. If, after notice
15 and hearing, the commissioner finds that the applicant, certificate
16 holder, or license holder has violated this chapter or another
17 provision of this code, the commissioner may refuse to issue or
18 renew a certificate of authority or a license, or may suspend or
19 revoke a certificate of authority or a license. (V.T.I.C. Art.
20 25.10, Sec. (a).)

21 Source Law

22 Art. 25.10. (a) The board may refuse to issue
23 or renew a certificate of authority or a license, or
24 may suspend or revoke a certificate of authority or a
25 license if, after notice and hearing, the board finds
26 that the applicant or licensee has violated this
27 chapter or any other provision of this code.

28 SECTION 17. CONFORMING AMENDMENT. Subtitle A, Title 5,
29 Labor Code, is amended by adding Chapter 406A to read as follows:

30 CHAPTER 406A. GROUP PURCHASE OF WORKERS' COMPENSATION

31 INSURANCE COVERAGE

32 Sec. 406A.001. DEFINITIONS. In this chapter:

33 (1) "Business entity" means a business enterprise
34 owned by a single person or a corporation, organization, business
35 trust, trust, partnership, joint venture, association, or other
36 business entity.

1 (2) "Commissioner" means the commissioner of
2 insurance.

3 (3) "Department" means the Texas Department of
4 Insurance. (V.T.I.C. Art. 5.57A, Sec. (a).)

5 Source Law

6 Art. 5.57A. (a) In this article:

7 (1) "Board" means the State Board of
8 Insurance.

9 (2) "Business entity" means a business
10 enterprise owned by a single person or a corporation,
11 organization, business trust, trust, partnership,
12 joint venture, association, or other business entity.

13 Revisor's Note

14 Section (a)(1), V.T.I.C. Article 5.57A, defines
15 "board" as the State Board of Insurance. Chapter 685,
16 Acts of the 73rd Legislature, Regular Session, 1993,
17 abolished the State Board of Insurance and transferred
18 its functions to the commissioner of insurance and the
19 Texas Department of Insurance. Throughout this
20 chapter, references to the board have been changed
21 appropriately. For this reason, the revised law
22 substitutes definitions of "commissioner" and
23 "department" for the definition of "board."

24 Sec. 406A.002. CERTIFICATION PROGRAM. (a) The department
25 shall:

26 (1) maintain a certification program for groups
27 organized under this chapter; and

28 (2) issue certificates of approval to eligible
29 business entities authorizing formation and maintenance of a group.

30 (b) The commissioner by rule shall adopt forms, criteria,
31 and procedures for issuing certificates of approval to groups under
32 this chapter. (V.T.I.C. Art. 5.57A, Secs. (d), (e).)

33 Source Law

34 (d) The Board shall establish a certification
35 program for groups organized under this article and
36 shall issue certificates of approval to eligible
37 business entities authorizing formation and
38 maintenance of a group.

39 (e) The Board by rule shall adopt forms,
40 criteria, and procedures for the issuance of

1 certificates of approval to groups under this article.

2 Revisor's Note

3 Section (d), V.T.I.C. Article 5.57A, requires the
4 Texas Department of Insurance to "establish" a
5 certification program. The revised law omits the
6 requirement to "establish" the certification program
7 as executed and substitutes a requirement to
8 "maintain" the certification program.

9 Sec. 406A.003. FORMATION OF GROUP. (a) On receipt of a
10 certificate of approval issued by the department under this
11 chapter, two or more business entities or two or more members of a
12 trade association may join together to form a group to purchase
13 individual workers' compensation insurance policies covering each
14 member of the group.

15 (b) To be eligible to join a group, a business entity must:

16 (1) be engaged in a business pursuit that is the same
17 as or similar to the other business entities participating in the
18 group as determined by the department; or

19 (2) be a member of the same trade association as the
20 other business entities participating in the group. (V.T.I.C.
21 Art. 5.57A, Secs. (a)(3), (b), (c), as amended Acts 78th Leg.,
22 R.S., Chs. 275, 607.)

23 Source Law

24 [as amended Acts 78th Leg., R.S., Ch. 607]

25 (3) "Group" means:

26 (A) two or more business entities
27 that join together with the approval of the Board to
28 purchase individual workers' compensation insurance
29 policies covering each business entity that is a part
30 of the group; or

31 (B) two or more members of a trade
32 association of business entities that join together
33 with the approval of the commissioner to purchase
34 individual workers' compensation insurance policies
35 covering each participating trade association member.

36 [as amended Acts 78th Leg., R.S., Ch. 275]

37 (3) "Group" means:

38 (A) two or more business entities
39 that join together with the approval of the Board to
40 purchase individual workers' compensation insurance
41 policies covering each business entity that is a part
42 of the group; or

43 (B) two or more members of a trade
44 association of business entities that join together to

1 purchase individual workers' compensation insurance
2 policies covering each participating trade
3 association member.

4 [as amended Acts 78th Leg., R.S., Ch. 607]

5 (b) On receiving approval of the Board as
6 provided by this article, two or more business
7 entities or members of a trade association may join
8 together to form a group to purchase individual
9 workers' compensation insurance policies covering each
10 member of the group.

11 [as amended Acts 78th Leg., R.S., Ch. 275]

12 (b) On receiving approval of the Board as
13 provided by this article, two or more business
14 entities or two or more members of a trade association
15 may join together to form a group to purchase
16 individual workers' compensation insurance policies
17 covering each member of the group.

18 (c) To be eligible to join a group, a business
19 entity must be:

20 (1) engaged in a business pursuit that is
21 the same as or similar to the other business entities
22 participating in the group as determined by the Board;
23 or

24 (2) a member of the same trade association
25 as the other business entities participating in the
26 group.

27 Revisor's Note

28 Section (b), V.T.I.C. Article 5.57A, refers to a
29 group receiving "approval" as provided by that
30 article. For consistency of terminology throughout
31 this chapter, the revised law substitutes "certificate
32 of approval" for "approval."

33 Sec. 406A.004. PLAN OF OPERATION. (a) A group shall:

34 (1) adopt a plan of operation; and

35 (2) file a copy of the plan of operation with the
36 department.

37 (b) The plan of operation must include:

38 (1) provisions governing the composition and
39 selection of a governing board;

40 (2) the methods for administering the group; and

41 (3) guidelines governing the workers' compensation
42 insurance coverage obtained by the group that include provisions
43 governing:

44 (A) the payment of premiums;

45 (B) the distribution of discounts; and

46 (C) the methods for providing risk management.

1 (V.T.I.C. Art. 5.57A, Sec. (i).)

2 Source Law

3 (i) A group shall adopt a plan of operation that
4 shall include the composition and selection of a
5 governing board, the methods for administering the
6 group, and guidelines for the workers' compensation
7 insurance coverage obtained by the group including the
8 payment of premiums, the distribution of discounts,
9 and the methods for providing risk management. A group
10 shall file a copy of its plan of operation with the
11 Board.

12 Sec. 406A.005. GROUP PURCHASE AUTHORIZED. A group
13 certified under this chapter may purchase individual workers'
14 compensation insurance policies covering each member of the group
15 from any insurer authorized to write workers' compensation
16 insurance in this state. (V.T.I.C. Art. 5.57A, Sec. (f) (part)).

17 Source Law

18 (f) A group certified under this article may
19 purchase individual workers' compensation insurance
20 policies covering each member of the group from any
21 insurer authorized to write workers' compensation
22 insurance in this state. . . .

23 Sec. 406A.006. POLICY RATES. Rates for policies purchased
24 under this chapter must be computed using manual rules and rates.
25 The department shall determine any experience rating factor that
26 must be applied to those policies as provided by the commissioner by
27 rule. (V.T.I.C. Art. 5.57A, Sec. (h)).

28 Source Law

29 (h) Manual rules and rates shall be used in
30 computing the rates for policies under this article,
31 and the Board shall determine any experience rating
32 factor that shall be applied to those group policies as
33 provided by the Board's rules.

34 Sec. 406A.007. GROUP DISCOUNT. (a) A group that purchases
35 a policy under this chapter is entitled to any premium or volume
36 discount that would be applicable to a policy of the combined
37 premium amount.

38 (b) A group shall apportion any discount or policyholder
39 dividend received on workers' compensation insurance coverage
40 among the members of the group according to a formula adopted in the
41 plan of operation for the group. (V.T.I.C. Art. 5.57A, Secs. (f)
42 (part), (g)).

Source Law

(f) . . . Under such a policy, the group is entitled to any premium or volume discount that would be applicable to a policy of the combined premium amount.

(g) A group shall apportion any discount or policyholder dividend received on workers' compensation insurance coverage among the members of the group according to a formula adopted in the plan of operation for the group.

Sec. 406A.008. APPLICABILITY OF OTHER LAW. (a) A group established under this chapter is entitled to any deviation applicable under Section 2052.004, 2053.051, or 2053.052(a) or (b), Insurance Code.

(b) A member of a group is not subject to the discounts and surcharges established under Subchapter F, Chapter 2053, Insurance Code. (V.T.I.C. Art. 5.57A, Sec. (j).)

Source Law

(j) A group established under this article is entitled to any deviation applicable under Article 5.60 of this code. A member of a group is not subject to the discounts and surcharges established under Article 5.55B of this code.

SECTION 18. REPEALER. (a) The following Acts and articles as compiled in Vernon's Texas Insurance Code are repealed:

(1) 1.04A, 1.14-3, 1.15, 1.15A, 1.15B, 1.16, 1.17, 1.17A, 1.18, 1.19, 1.32, and 1.39;

(2) 2.10, 2.10-1, 2.10-2, 2.10-3A, 2.10-4, and 2.10-5;

(3) 3.10, 3.16, 3.17, 3.18, 3.28, 3.29, 3.31, 3.32,
3.33, 3.39, 3.39a, 3.40, 3.40-1, 3.41, 3.41a, and 3.56;

(4) 5.01C, 5.01-3, 5.06-1, 5.06-2, 5.06-3, 5.06-4, 5.06-5, 5.06-6, 5.07, 5.07-1, 5.08, 5.09, 5.12-1, 5.13-2C, 5.15-2, 5.15-3, 5.15-4, 5.18, 5.19, 5.20, 5.21, 5.25-1, 5.25-2, 5.33, 5.33B, 5.33E, 5.35-1, 5.35-2, 5.35-3, 5.36, 5.37, 5.38, 5.41-1, 5.41-2, 5.41-3, 5.42, 5.43, 5.45, 5.46, 5.47, 5.48, 5.48-1, 5.48-2, 5.51, 5.52, 5.53, 5.53-A, 5.54, 5.55, 5.55B, 5.55C, 5.56, 5.57, 5.57A, 5.58, 5.59, 5.60, 5.60A, 5.61, 5.62, 5.63, 5.64, 5.65A, 5.65B, 5.65C, 5.67, 5.68-1, 5.69, 5.70, 5.71, 5.72, 5.73, 5.74, 5.75, 5.75-1, 5.75-3, 5.76-3, 5.76-4, 5.76-5, 5.90, 5.92, 5.98, 5.102, 5.131, 5.144, 5.145, 5.171, and 5.172;

1 (5) 7.01, 7.02, 7.19-1, 7.20, and 7.20-1;

2 (6) 21.11-2, 21.28, 21.28-A, 21.28-C, 21.28-D,
3 21.28-E, 21.31, 21.32, 21.32A, 21.39, 21.39-A, 21.39-B, 21.40,
4 21.49, 21.49-3b, 21.49-3d, 21.49-4, 21.49-4a, 21.49-6, 21.49-7,
5 21.49-8, 21.49-11, 21.49-13, 21.49-14, 21.49-15A, 21.49-17,
6 21.49-18, 21.49-20, 21.49A, 21.49A-1, 21.49B, 21.50, 21.54,
7 21.58A, 21.58B, 21.58C, 21.61, 21.72, 21.77, 21.79, 21.79E, and
8 21.81; and

9 (7) 25.01, 25.02, 25.03, 25.04, 25.05, 25.06, 25.07,
10 25.08, 25.09, and 25.10.

11 (b) Sections 3, 4, 5, and 17, Article 1.10, Insurance Code,
12 are repealed.

13 (c) Subsections (5), (6), (9), (10), (11), and (12)(b),
14 Article 5.06, Insurance Code, are repealed.

15 (d) Sections 2-8 and 10-16, Article 5.13-2, Insurance Code,
16 are repealed.

17 (e) Sections 1-9 and 11, Article 5.15-1, Insurance Code, are
18 repealed.

19 (f) Subsections (b) and (c), Article 5.28, Insurance Code,
20 are repealed.

21 (g) Subsection (k), Article 5.35, Insurance Code, as added
22 by Chapter 206, Acts of the 78th Legislature, Regular Session,
23 2003, is repealed.

24 (h) Sections 1, 3-4B, and 5-10, Article 21.49-3, Insurance
25 Code, are repealed.

26 SECTION 19. LEGISLATIVE INTENT. This Act is enacted under
27 Section 43, Article III, Texas Constitution. This Act is intended
28 as a recodification only, and no substantive change in law is
29 intended by this Act.

30 SECTION 20. EFFECTIVE DATE. This Act takes effect April 1,
31 2007.